

REMARKS

The Office Action of December 12, 2010 (hereafter referred to as the "Office Action") has been received and its contents carefully noted. By this Amendment, claims 1, 8 and 14 have been amended to even more clearly define the claimed subject matter and/or to improve the syntax, grammar, and idiom of the language recited therein. New dependent claims 23-28 have been added for consideration by the examiner. No new matter has been added. No claims have been canceled. Accordingly, claims 1-3, 5-9, 11-12, and 14-28 are currently pending in the application, of which claims 1, 8 and 14 are independent claims. In view of the above amendments and following remarks, Applicants respectfully request reconsideration and timely withdrawal of the pending rejections for at least the reasons discussed below.

Rejection of Claims Under 35 U.S.C. § 103

In the Office Action, the Examiner has rejected Claims 1-3, 6, 8-9, 14, and 19-22 under 35 U.S.C. §103(a) as being unpatentable over Brown et al. (US 6,901,381 B2) in view of Brotherston (US 2002/0010633 A1) and Muchlhaeuser (US 2004/0002902 A1) and Stern et al. (US 2003/134645 A1); Claims 5, 7, 11-12, and 15-18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brown et al. (US 6,901,381 B2) in view of Brotherston (US 2002/0010633 A1) and Muchlhaeuser (US 2004/0002902 A1) and Stern et al. (US 2003/134645 A1) as applied to the respective independent claims, and further in view of Arteaga et al. (US 2002/0161826 A1); and Claims 7 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Brown et al. (US 6,901,381 B2) in view of Brotherston (US 2002/0010633 A1) and Muchlhaeuser (US 2004/0002902 A1) and Stern et al. (US 2003/134645 A1) as applied to the respective independent claims, and further in view of Albert et al. (US 5,991,410 A).

Applicant respectfully traverses each and every one of these rejections. Based on the following remarks, Applicant respectfully submits that the claims are allowable over the prior art.

A. Claims 1-3, 6, 8-9, 14, and 19-22

Independent claims 1, 8 and 14, and dependent claims 2, 3, 6, 9, and 19-22 were rejected by the Examiner as being unpatentable over Brown in view of Brotherston and Muehlhaeuser and Stern.

Brown appears to disclose a system that uses dedicated point of sale computers on a train, attached or connected to its docking station, to facilitate food transaction services in the train's dining car. Once the train returns to the station, the data from the point of sale computers is then uploaded to a workstation located at commissaries throughout the railroad network. The information from the workstation is then transmitted directly to a server located at headquarters. An objective of Brown appears to be a food inventory management system that uses a portable terminal acting as a cash register to control and track rolling inventory where numerous trains are stocked with food from the same commissary.

Brotherston appears to disclose a local area network (LAN) system for transport vehicles such as airplanes. Cabin attendants use handheld modules to manage the delivery of products and services to passengers, a cabin server is located onboard the vehicle for storing data, with a communications link to a ground fixed router where the data is then transmitted to an inventory and services server.

Muehlhaeuser appears to disclose the use of a mobile handheld device for accessing services over a wireless connection.

As noted by the Office Action, none of Brown, Brotherston, or Muehlhaeuser discloses a PDA that is configured to provide a change due flag to record consumer identifying information to capture the amount of change due to consumer at the point of sale. The Office Action, instead, looks to Stern to teach the claimed feature, which is neither taught nor rendered obvious by any of Brown, Brotherston, or Muehlhaeuser, or any proper combination thereof. However, a careful review of Stern reveals that any proper combination of Brown, Brotherston, Muehlhaeuser and Stern will not result in, nor render obvious the claimed subject matter of claim 1, claim 8 or claim 14.

Stern appears to disclose a method and apparatus that allows data to be provided to a person or device while such person or device is in a specific location. Stern appears to establish a data perimeter around an individual, object, geographic area or other type of location using one or more transmitters, such that devices or people within the data perimeter can receive the data. Stern uses a processor to determine the location associated with a device, wherein the device is associated with a person, and data associated with that person may then be determined. Stern defines a data perimeter such as restricted areas, no fly zones, school premises, hospitals. Stern discloses an embodiment wherein the device or entity implementing the disclosed method may receive compensation and the method may include determining the compensation amount due and providing a notification regarding the compensation, which may be a part of a subscription service set up by a person receiving the data. However, Stern does not disclose nor render obvious a PDA that, inter alia, "is configured to provide a change due flag to record consumer identifying information to capture the amount of change due to consumer at the point of sale," as recited in claims 1 and 8, or, inter alia, "checking a change due flag on the PDA at the point of

sale and entering the amount of change due to consumer by consumer identifying information,” as recited in claim 14.

Stern’s compensation amount due and notification function are not comparable to the claimed change due flag. Stern’s definition of compensation appears to be the amount a user owes a provider for providing service and Stern’s compensation due appears to work as a bill notification, wherein the user who subscribes to a data perimeter service (e.g., a GPS tracking service) receives *notification* regarding amounts due for such service.

Since Stern fails to disclose or render obvious a PDA that, *inter alia*, “is configured to provide a change due flag to record consumer identifying information to capture the amount of change due to consumer at the point of sale,” as recited in claims 1 and 8, or, *inter alia*, “checking a change due flag on the PDA at the point of sale and entering the amount of change due a consumer by consumer identifying information,” as recited in claim 14, any proper combination of Brown, Brotherston, and/or Muehlhaeuser with Stern would not result in, nor render obvious the subject matter recited in claim 1 or claim 15.

With regard to dependent claims 2, 3 and 6, Applicant asserts that these claims are allowable on their own merit and at least because they depend on independent claim 1, which Applicant submits has been shown to be allowable. With regard to dependent claim 9, Applicant asserts that these claims are allowable on their own merit and at least because they depend on independent claim 8, which Applicant submits has been shown to be allowable. With regard to dependent claims 19-22, Applicant asserts that these claims are allowable on their own merit and at least because they depend on independent claim 14, which Applicant submits has been shown to be allowable.

A rejection under 35 U.S.C. § 103 based on obviousness cannot be properly maintained without a proper disclosure of each and every element and the motivation to combine the elements. Here the applied references fail to disclose or render obvious all of the claimed subject matter of either claim 1, claim 8 or claim 14. Further, absent impermissible hindsight, one of ordinary skill in the art would have no reason to combine the references as posited by the Official Action. Accordingly, the Examiner is respectfully requested to withdraw the rejection under 35 U.S.C. § 103.

B. Claims 5, 7, 11-12, and 15-18

Dependent claims 5, 11-12, and 15-17 were rejected by the Examiner as being unpatentable over Brown in view of Brotherston and Muehlhaeuser and Stern as applied to the respective independent claims, and further in view of Arteaga. The Official Action states that Brown in view of Brotherston and Muehlhaeuser and Stern fails to disclose wherein the POS device is a PDA that has a cradle for upload/download of data including a touch screen interface, printer and magnetic card strip reader to perform the sales transaction, adjust inventory and capture an electronic signature. The Official Action also states that Arteaga discloses such a PDA and that one of ordinary skill in the art would have been motivated to combine the teachings of Brown in view of Brotherston and Muehlhaeuser and Stern with Arteaga.

While Arteaga appears to disclose a mobile handheld device for users to carry out real-time transactions, it does not appear to disclose wherein the mobile handheld device is configured to provide a change due flag to record consumer identifying information to capture the amount of change due to consumer.

Applicant expressly includes the arguments noted above with respect to Brown, Brotherston, Muehlhaeuser and Stern, and that the combination does not render obvious the features of the present invention. Applicant further notes that one of ordinary skill in the art, absent impermissible hindsight, would have no reason to attempt to combine Arteaga's mobile handheld device for real-time transactions with Stern's data perimeter tracking device with Brown, Brotherston, or Muehlhaeuser's transactional sales devices.

With regard to dependent claims 5, 11-12, and 15-17, Applicant asserts that these claims are allowable on their own merit and at least because they depend on independent claims 1, 8 or 14, all of which Applicant submits has been shown to be allowable.

Dependent claims 7 and 18 were rejected by the Examiner as being unpatentable over Brown in view of Brotherston and Muehlhaeuser and Stern as applied to the respective independent claims, and further in view of Albert. The Official Action states that Brown in view of Brotherston and Muehlhaeuser fails to disclose receiving transaction information from a financial network and storing settlement information into a database. The Official Action also states that Albert discloses such a financial network and storage of settlement information into a database and that one of ordinary skill in the art would have been motivated to combine the teachings.

While Albert appears to disclose a wireless adaptor for use with a financial transaction device, it does not appear to disclose wherein the mobile handheld device is configured to provide a change due flag to record consumer identifying information to capture the amount of change due to consumer.

Applicant expressly includes the arguments noted above with respect to Brown, Brotherston, and Muchlhacuser and Stern and that the combination does not render obvious the features of the present invention. Applicant further notes that one of ordinary skill in the art, absent impermissible hindsight, would have no reason to attempt to combine Albert's wireless adaptor for use with a financial transaction device with Stern's data perimeter tracking device with Brown, Brotherston, or Muchlhacuser's transactional sales devices. Also, while Albert may, *arguendo*, teach wherein a wireless adaptor is used for financial transaction devices, Albert fails to cure the deficiencies of Brown, Brotherston, and Muchlhacuser and Stern or the combination thereof.

With regard to dependent claims 7 and 18, Applicant asserts that these claims are allowable on their own merit and at least because they depend on independent claims 1 and 14, which Applicant submits have been shown to be allowable.

Newly added claims 23-28 depend from claim 1, claim 8 or claim 14. Therefore, these claims are allowable because they depend from independent claim 1, claim 8 or claim 15, as well as for reasons related to their own recitations.

In view of the fact that none of the art of record, whether considered alone or in any proper combination, discloses or suggests the present invention as defined by the pending claims, and in further view of the above remarks, these rejections have been rendered moot. Reconsideration of the Examiner's action and allowance of the present application are respectfully requested and are believed to be appropriate.


CONCLUSION

Applicant believes that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicants' undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,



John S. Hiltner
Reg. No. 52,518

Date: March 21, 2011

McGuire Woods LLP
1750 Tysons Boulevard
Suite 1800
McLean, VA 22102-4215
Tel: 703.712.5069
Fax: 703.712.5196

\\30039289.1